

1999-374-C  
2003-224-C  
2004-214-C  
2006-70-C

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December 29, 2011

**VIA OVERNIGHT DELIVERY**

Jocelyn Boyd  
Executive Director  
South Carolina Public Service Commission  
101 Executive Center Drive  
Suite 100  
Columbia, South Carolina 29210



RECEIVED  
2011 DEC 30 AM 10:20  
SOUTH CAROLINA  
PUBLIC SERVICE  
COMMISSION

Re: *Informational Filing* to Notify the Commission of a Pro Forma Change  
in Ownership Involving XO Communications Services, Inc. and Nextlink  
Wireless, Inc.

Dear Ms. Boyd:

XO Communications Services, Inc. ("XOCS") and Nextlink Wireless, Inc. ("Nextlink"; together with XOCS, the "XO Subsidiaries"), by their counsel, respectfully notify the South Carolina Public Service Commission ("Commission") of certain transactions and related actions that result in a *pro forma* change to the ownership of the XO Subsidiaries (the "Transaction").<sup>1</sup> As discussed below, ultimate *de facto* control of the XO Subsidiaries will remain unaltered. Following the Transaction, Carl C. Icahn ("Mr. Icahn") will continue to hold ultimate ownership and control of the XO Subsidiaries as he does today.

Similarly, following consummation of the Transaction, the XO Subsidiaries will continue to offer the same services at the same rates, terms and conditions as previously, pursuant to their existing authorizations and tariffs. Accordingly, the Transaction will be entirely transparent to the XO Subsidiaries' customers. Because there will be no change whatsoever in

<sup>1</sup> This is the second notification of a *pro forma* change in the ownership of the XO Subsidiaries that the XO Subsidiaries have filed with the Commission in 2011. The first notification, concerning the privatization of XO Holdings, Inc., was submitted on August 9, 2011.

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the ultimate control of the XO Subsidiaries and the Transaction will have no impact on the XO Subsidiaries' customers, it is the understanding of the XO Subsidiaries that prior approval of the Commission is not required and that notice of the Transaction is sufficient.<sup>2</sup> The XO Subsidiaries submit this informational letter as an update for the Commission's files.

### **The XO Subsidiaries**

*XOCS.* XOCS is authorized by the Commission to provide competitive intrastate telecommunications services in south Carolina.<sup>3</sup> XOCS is a Delaware corporation and a direct, wholly-owned subsidiary of XO Communications, LLC ("XO LLC"). XO LLC, a Delaware limited liability company, is a leading national provider of local and long distance telecommunications services to businesses, large enterprises and telecommunications carriers. XO LLC is authorized by the Federal Communications Commission to provide interstate and international telecommunications services. Through its subsidiaries – primarily XOCS<sup>4</sup> – XO LLC is authorized to provide intrastate interexchange services in 49 states and to provide competitive local exchange services in 48 states as well as in the District of Columbia.

XO LLC is a direct, wholly-owned subsidiary of XO Holdings, LLC ("Holdings"), a Delaware limited liability company and a holding company. At present, various U.S. entities controlled by Mr. Icahn (the "Parent Group") collectively hold 100% of the voting interests in Holdings. Members of the Parent Group include but are not limited to ACF Industries Holding LLC ("ACF"), Barberry Corporation ("Barberry"), and Highcrest Investors, LLC ("Highcrest").<sup>5</sup> Mr. Icahn is a U.S. citizen.

*Nextlink.* Nextlink is a Delaware corporation and a direct, wholly-owned subsidiary of Holdings. In South Carolina, Nextlink has been authorized as a competitive carrier to provide local and interexchange services.<sup>6</sup> Nextlink offers broadband wireless access services, managed network services, and wireless access solutions for mobile and wireline voice,

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<sup>2</sup> In the event that the Commission determines that prior approval of the Transaction is required, the XO Subsidiaries respectfully request that the Commission accept and treat this notice as the required application.

<sup>3</sup> XOCS was authorized to provide local and interexchange services in docket 2004-214-C/2004-532 on October 26, 2004.

<sup>4</sup> XOCS does not operate in Nevada and Virginia, where XO LLC provides service through two additional subsidiaries: Telecommunications of Nevada, LLC and XO Virginia, LLC, respectively.

<sup>5</sup> Highcrest Investors LLC was converted from a corporation into a limited liability company on September 1, 2011.

<sup>6</sup> Nextlink was authorized to provide these services in docket 2006-70-C on May 17, 2006.

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data, and video applications to wireless and wireline communications carriers, businesses, and government agencies in the U.S. Nextlink is authorized to provide intrastate services in 26 states as well as in the District of Columbia.

XOCS, XO LLC, Holdings and Nextlink are located at 13865 Sunrise Valley Drive, Herndon, Virginia 20171, (703) 547-2000. The address of Carl C. Icahn is 767 Fifth Avenue, 47th Floor, New York, New York 10153. The principal business address of the Parent Group is c/o White Plains Plaza, 445 Hamilton Avenue, Suite 1210, White Plains, New York 10601. Organizational charts for the XO Subsidiaries, including their anticipated post-transaction ownership structure, are provided as *EXHIBIT A*.

### **The Transaction**

Holdings and certain members of the Parent Group have entered into various agreements the purpose of which is to restructure the interests of the Parent Group in Holdings. In the course of implementing these agreements and related actions, various members of the Parent Group are being eliminated, new members are being added, and direct and indirect interests in Holdings are being transferred among Parent Group members. Implementing these agreements and related actions should be completed by January 1, 2012. Upon completion, ACF Industries Holding Sub LLC ("ACF Sub"), a Delaware limited liability company and a new wholly-owned subsidiary of ACF, and Barberry Sub LLC ("Barberry Sub"), a Delaware limited liability company and a new wholly-owned subsidiary of Barberry, will hold 100% of the direct interests in Holdings. ACF Sub will hold 98.48% of the direct interests in Holdings, while Barberry Sub will hold 1.52%.

Also, on or around January 1, 2012, Holdings will be converted from a Delaware limited liability company into a Delaware general partnership ("Holdings G.P."). ACF Sub and Barberry Sub will be the general partners of Holdings G.P. and thus will control Holdings G.P.

ACF Sub and Barberry Sub, like all other members of the Parent Group, are ultimately owned and controlled by Mr. Icahn. As such, the Transaction does not result in a change in the actual control of the XO Subsidiaries and is *pro forma* in nature.

### **Public Interest Considerations**

The proposed Transaction will serve the public interest, as it will enhance the strategic and financial flexibility of the XO Subsidiaries. Following consummation of the Transaction, Holdings G.P. will enjoy the advantages of its consolidated ownership and partnership structure. These advantages will inure to the benefit of the XO Subsidiaries and their customers.

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At the same time, the proposed Transaction holds no adverse consequences for consumers. In short, the Transaction will be transparent to XO's customers. There will be no change to the operating entities which directly serve XO customers. The XO Subsidiaries will remain intact, as wholly-owned subsidiaries of Holdings G.P., and will continue under the ultimate control of Mr. Icahn. There will be no change to the services provided to customers or to the terms and conditions under which these services are delivered. There will be no change to the management of the XO Subsidiaries or to their operational and financial qualifications as a result of the Transaction.

As explained above, the XO Subsidiaries are submitting this letter for the Commission's information only and request that it be retained in the appropriate file. Enclosed with this original, please find fifteen (15) copies and a duplicate of this letter. Please date-stamp the duplicate and return it in the envelope provided. Should the Commission have any questions or believe that any further information is required, please contact Winafred Brantl at (202) 342-8819 or via email at [wbrantl@kelleydrye.com](mailto:wbrantl@kelleydrye.com).

Respectfully submitted,

XO Communications Services, Inc. and  
Nextlink Wireless, Inc.

*Randall W. Sifers*

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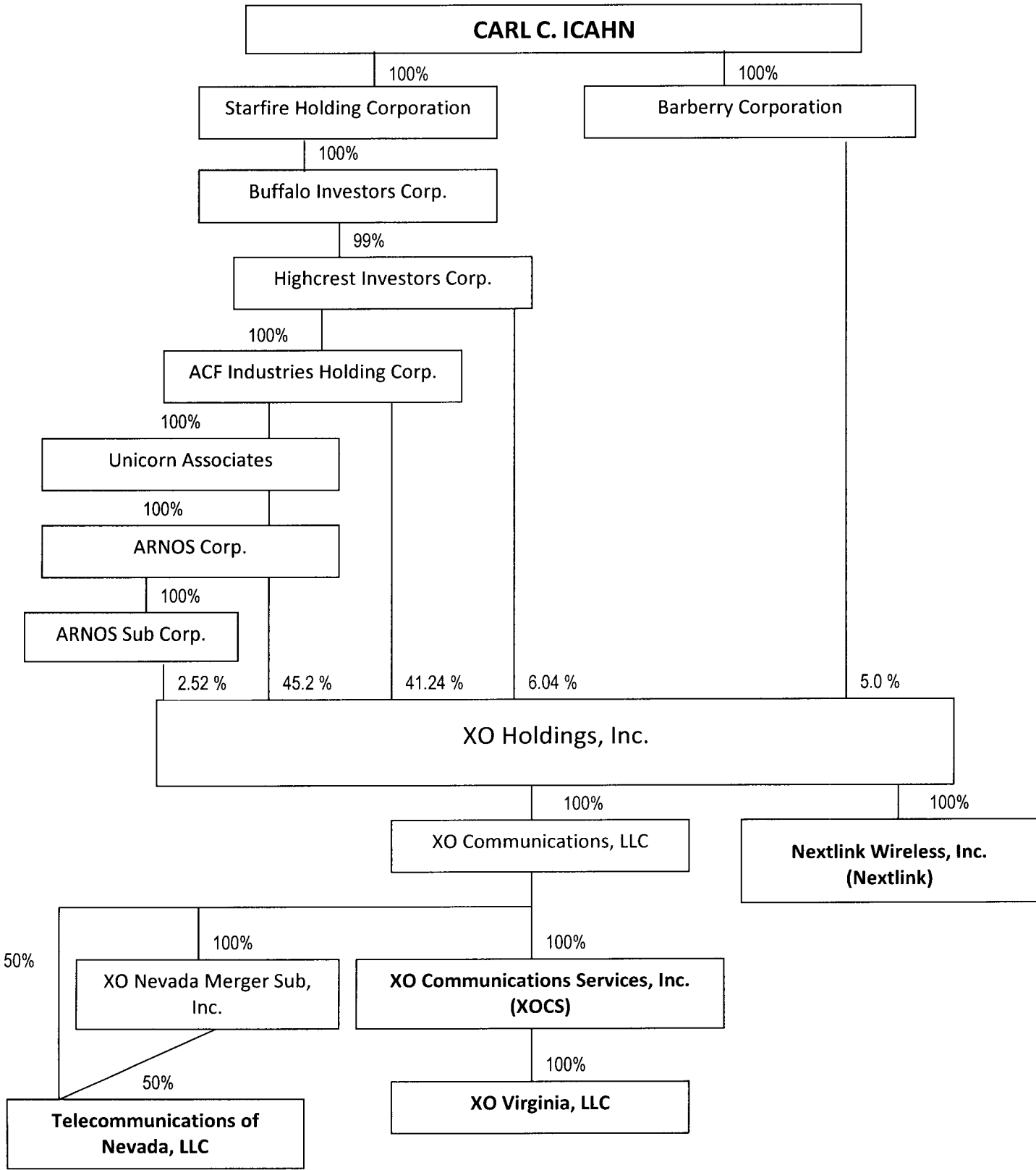
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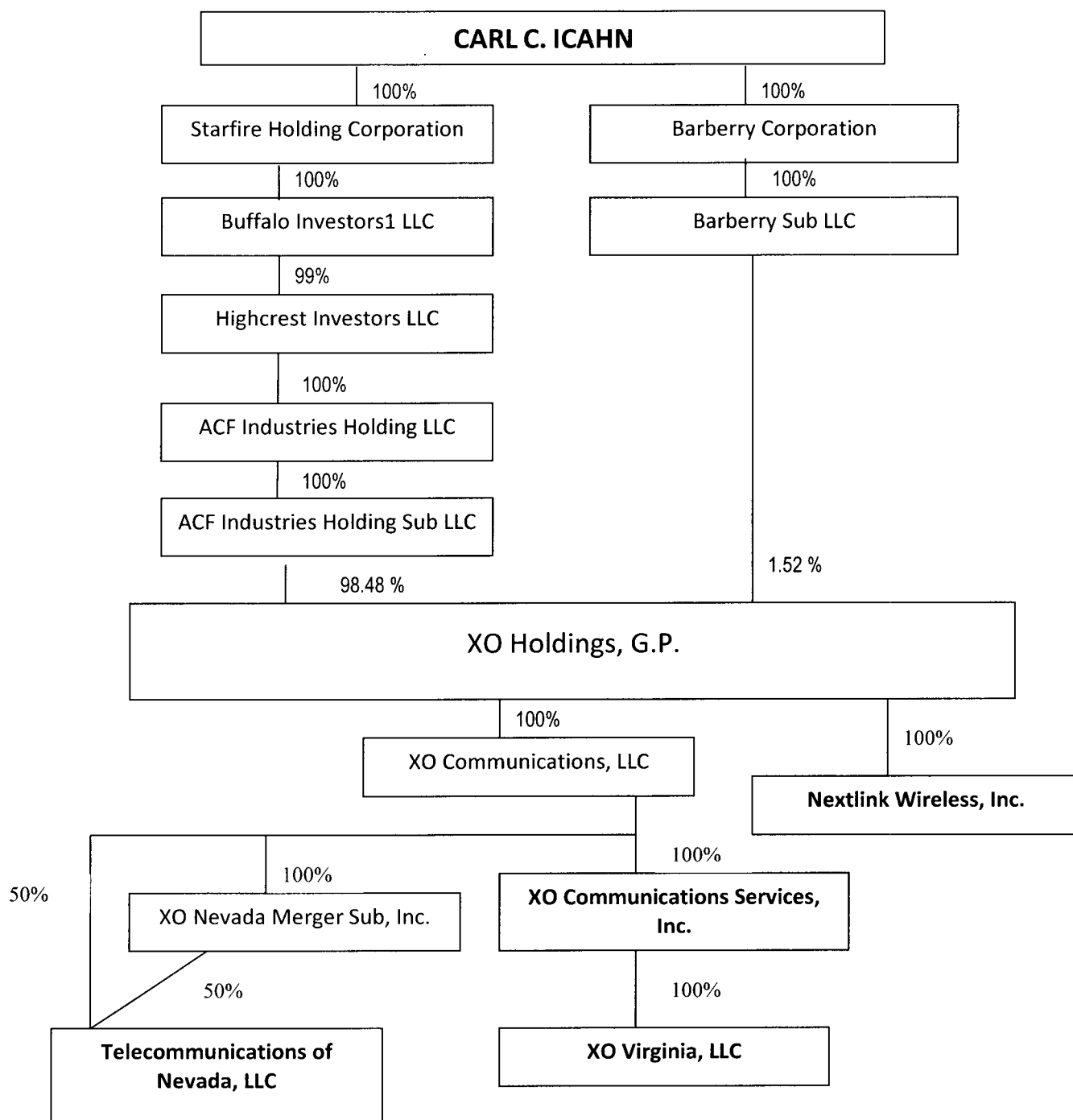
## **EXHIBIT A**

### **Organizational Charts for XO Companies**

**OWNERSHIP of XO Communications, LLC**  
**On or around August 18, 2011**



**OWNERSHIP of XO Communications, LLC**  
**On or around January 1, 2012**



Notes

ACF Industries Holdings Sub LLC and Barberry Sub LLC are the general partners of XO Holdings, G.P.